

REMARKS

Status of the Claims

Claims 1-2, 4, 5, 8-11, 18, 19, 21-23, 25-29, 33 are currently pending.

New claims 34-36 have been added. New independent claim 34 recites a packaging film comprising at least two layers, wherein each layer comprises polyvinyl chloride and plasticizer, wherein the plasticizer is at least one of epoxidized soya bean oil or di(2-ethyl-hexyl) adipate in an amount at least about 22 pph; wherein the at least two polyvinyl chloride layers are adjacent to one another; and wherein the film is a visually clear packaging film. Support for this claim can be found in the specification, for example at Fig. 3. New dependent claim 35 recites that the film further comprises di(2-ethyl-hexyl) adipate in an amount at least about 21.6 pph. Support for this claim can be found in the specification, for example at Fig. 3. New dependent claim 36 recites ratio of epoxidized soya bean oil to di(2-ethyl-hexyl) adipate is less than about 0.5. Support for this claim can be found throughout the specification, for example at page 10, lines 15-17 (as amended to correct a typographical error). No new matter has been added by the addition of these claims, and Applicants believe that these claims are in a condition for allowance.

Claims 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 are currently rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the Greenlee reference. Independent claims 1, 18, 22, and 33 have been amended in this Amendment and Response. Each of these claims has been amended to recite a flexible packaging film. Support for this amendment can be found throughout the specification, including for example, at page 5, line 31, page 6, lines 21-25, page 8, lines 18-20, page 9, lines 30-31.

Applicants respectfully submit that the pending rejection of 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 under 35 U.S.C. §102(b) cannot be maintained against the claims as currently amended. Applicants therefore respectfully request withdrawal of the rejection and allowance of those respective claims. To the extent that the current rejection under 35 U.S.C. §102(b) is maintained with respect to any of the claims as currently amended, the

Applicants respectfully traverse the rejection and request consideration of the argument regarding the 102(b) rejection provided below.

35 U.S.C. §102(b)

Claims 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 are currently rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the Greenlee reference. For the reasons discussed above, Applicants believe that the currently presented amendments to independent claims 1, 18, 22, and 31 overcome the pending rejection in light of Greenlee, and that these claims and those which depend from them are now in a condition for allowance.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (See MPEP §2131).

Claims 1, 18, 22, and 31 have been amended to recite, among other things, a flexible packaging film. The Greenlee reference does not teach a flexible packaging film, but to the contrary discloses that its composition is rigid. (See, e.g., Greenlee reference at claims 1, 22 (claiming a “rigid multilayer thermoplastic polyvinyl chloride product”), col. 15, lines 35-36 (“rigid thermoplastic PVC compounds for this process), line 65 (“rigid PVC compounds of the present invention”). Moreover, the Greenlee patent states that its composition is intended for use as a refrigerator door liner—an application requiring a rigid compound. (See, e.g., Greenlee reference at Abstract.) Applicants therefore respectfully submit that the Greenlee reference does not disclose all of the limitations of currently amended claims 1, 18, 22, and 31, and claims 2, 4-5, 8-11, 23, 25-26, 29, and 33 which depend therefrom.

In light of the amendments in the currently presented claims, and the arguments provided herein, the Applicants respectfully request that the pending rejection under 102(b) be withdrawn and that currently amended claims 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 be allowed.

35 U.S.C. §103(a) - Greenlee

Claim 27 is currently rejected under 35 U.S.C. §103(a) as allegedly being obvious in view of the Greenlee reference.

To make out a prima facie case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (See M.P.E.P. §2142.)

For the reasons discussed above, the Greenlee reference does not disclose a flexible packaging film as required by independent claim 22 as amended (and claim 27, which depends therefrom). Accordingly, the Applicants respectfully request that the pending rejection under §103(a) be withdrawn and that claim 27 be allowed.

35 U.S.C. §103(a) – Simon et al

Claims 18-19, 21, and 28 are currently rejected under 35 U.S.C. §103(a) as allegedly being obvious in view of the Simon reference.

Again, to make out a prima facie case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (See M.P.E.P. §2142.)

Independent claims 18 and 22 (and claims 19, 21, and 28, which depend therefrom) recite “a flexible packaging film comprising at least two layers,” and further require that the “at least two layers are adjacent to one another.” For example, the specification describes the at least two layers as “extruded together,” “fused together,” or “laminated together” into a unitary film. (See, e.g., page 3, lines 22-31.)

The Simon reference does not disclose at least two layers that are adjacent to one another. To the contrary, the Simon reference discloses two layers that form opposite sides of an open bag. (See, e.g., Simon reference at Fig. 1, Abstract, col. 2, lines 46-51.) The product disclosed in the Simon reference “has a top film ply 12 and a bottom film ply 14 joined to each other about three sides of their superimposed perimeters . . . thereby providing and defining an opening at one end thereof.” (Id. at 46-50.) The “mouth of the

bag may be opened by directing a blast of air into it and then the meat product to be packaged may be inserted into the bag. . .”) (Id. at col. 2, lines 60-62.) In other words, the layers in the Simon reference are disclosed to be apart from each other in order to surround a meat product. The Simon product could not operate for its intended use as a bag if the layers were adjacent to one another, as required by the present claims.

In light of the arguments provided herein, the Applicants respectfully request that the pending rejection under 103(a) be withdrawn and claims 18-19, 21, and 28 be allowed.

CONCLUSION

Claims 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 are currently rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the Greenlee reference. Claim 27 is currently rejected under 35 U.S.C. §103(a) as allegedly being obvious in view of the Greenlee reference. Claims 18-19, 21, and 28 are currently rejected under 35 U.S.C. §103(a) as allegedly being obvious in view of the Simon reference. New claims 34-36 have been added.

In view of the amendments and arguments provided herein, Applicants believe that the pending rejection of claims 1-2, 4-5, 8-11, 22-23, 25-26, 29 and 31-33 under 35 U.S.C. §102(b) has been overcome. Applicant also believes that the pending rejection of claims 18-19, 21, 27, and 28 under 35 U.S.C. §103(a) has been overcome. Applicants respectfully submit that these claims as currently amended are therefore in a condition for allowance.

Applicants also respectfully submit that new claims 34-36 are in a condition for allowance.

Applicants therefore respectfully request that claims 11-2, 4, 5, 8-11, 18, 19, 21-23, 25-29, 33-36 be allowed.

Applicants believe that a fee of \$200.00 is due in conjunction with the filing of this Amendment and Response due to the addition of an independent claim. The Commissioner is authorized to charge the claim fee, and any additional fees which may be required, or credit any overpayment to Account No. 13-0017, in the name of McAndrews, Held & Malloy, Ltd.

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Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read 'Troy A. Groetken', written over a horizontal line.

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